



Crl.M.P.Nos.10890 & 11182 of 2022
in Crl.A.Nos.56 & 88 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM

THE HONOURABLE MR. JUSTICE **P.N.PRAKASH**
AND
THE HONOURABLE MR. JUSTICE **RMT.TEEKAA RAMAN**

Crl.M.P.Nos.10890 & 11182 of 2022
in Crl.A.Nos.56 & 88 of 2022

N.Thenkumar	..	Petitioner/Accused No.2 in Crl.M.P.No.10890/2022
Harikrishnan	..	Petitioner/Accused No.3 in Crl.M.P.No.11182/2022

Vs.

State represented by The Inspector of Police, Thalaivasal Police Station, Salem District. (Crime No.303 of 2018)	..	Respondent/Complainant in both petitions
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Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C., to suspend the sentence imposed on the petitioners by judgment and order dated 17.08.2021 passed in S.C.No.206 of 2019 on the file of the I Additional District and Sessions Court, Salem and to enlarge the petitioners on bail pending disposal of the appeal.



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For Petitioner
in Crl.M.P.No.10890/2022 : Mr.R.Prabakar
For Petitioner
in Crl.M.P.No.11182/2022 : Mr.W.Camyles Gandhi
For Respondent
in both petitions : Mr.R.Muniyapparaj
Addl. Public Prosecutor

ORDER

(Made by *P.N.PRAKASH, J.*)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioners by judgment and order dated 17.08.2021 passed in S.C.No.206 of 2019 on the file of the I Additional District and Sessions Court, Salem and to enlarge the petitioners on bail pending disposal of the appeal.

2. The petitioners faced a prosecution along with Alayamani (A1) in S.C.No.206 of 2019 before the I Additional District and Sessions Court, Salem and have been convicted and sentenced as follows on 17.08.2021:

<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Thenkumar (A2)	Section 120(b) IPC, each	Life imprisonment and fine of Rs.2,000/-, in default to undergo six months simple imprisonment, each.
Harikrishnan (A3)	Section 302 IPC, each	Life imprisonment and fine of Rs.2,000/-, in default to undergo six months simple imprisonment, each.



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<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
The aforesaid sentences were ordered to run concurrently.		

3. Challenging the above conviction and sentences, Thenkumar (A2) has filed Crl.A.No.56 of 2022 and Harikrishnan (A3) has filed Crl.A.No.88 of 2022 and they have filed the instant miscellaneous petitions seeking suspension of sentence and bail.

4. Heard both sides.

5. It is seen that this Court, by order dated 11.07.2022 in Crl.M.P.No.8300 of 2022 in Crl.A.No.2 of 2022 has granted suspension of sentence and bail to Alayamani (A1).

6. It is the case of the prosecution that the deceased Kaliyamoorthy was the husband of Alayamani (A1); Alayamani (A1) was having illicit intimacy with Thenkumar (A2); the same was objected to by her husband and so, they contrived and planned to do away with Kaliyamoorthy; Thenkumar (A2), Harikrishnan (A3) and a juvenile are said to have entered into the house of Kaliyamoorthy, smothered him and stabbed him to death.



7. We find that most of the witnesses have turned hostile. That

apart, the petitioners have raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioners have been in incarceration since 17.08.2021. Therefore, this Court is of the view that the petitioners are entitled to the relief of suspension of sentence and bail.

8. Accordingly, these criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioners on the following conditions:

- (i) The petitioners shall execute a bond for a sum of Rs.25,000/- each, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the I Additional District and Sessions Court, Salem;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile number to ensure their identity; and
- (iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.



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(P.N.P.,J.) (TKRJ)
28.11.2022

To

- 1.The I Additional District and Sessions Judge,
Salem.
- 2.The The Inspector of Police,
Thalaivasal Police Station,
Salem District.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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P.N.PRAKASH, J.
and
RMT.TEEKAA RAMAN, J.
nsd

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